

OF MICHIGAN

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT

DERRICK LEE CARDELLO-SMITH #267009,  
Plaintiff,

vs

SEAN COMBS

Defendant,

Case No 24-12647

HON. JUDITH LEVY  
HON. KIMBERLY ALTMAN

PLAINTIFFS MOTION TO REMAND CASE BACK TO THE  
LENAWEE COUNTY CIRCUIT COURT BASED ON  
DEFENDANTS FAILURE TO FILE A TIMELY NOTICE  
OF REMOVAL WITHIN THE 30 DAYS REQUIRED BY 28 U.S.C. § 1332(a)(1)

Now comes the Plaintiff, Derrick Lee Cardello-Smith in the above cause and hereby moves this Court to REMAND THE CASE BACK TO THE 39TH JUDICIAL CIRCUIT COURT FOR LENAWEE COUNTY BASED ON THE DEFENDANTS FAILURE TO FILE THE NOTICE OF REMOVAL WITHIN THE REQUIRED 30 DAYS OF 28 U.S.C. § 1332(a)(1) requiring this Court to grant such remand and relief where the following arguments are contained within the Brief in Support for said relief being Granted.

*Thank you for your time in this matter.*

10-10-24

*Mr. Derrick Lee Cardello-Smith*

#267009

E.C. Brooks Correctional Facility  
2500 S. Sheridan Drive  
Muskegon, MI 49444

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OCT 17 2024  
CLERK'S OFFICE  
DETROIT

BRIEF IN SUPPORT OF MOTION TO REMAND

The Arguments are very simply and clearly obvious.

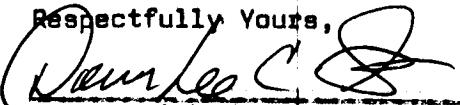
1. The Defendants Are lying and have lied to this Court.
2. The Defendants lied and said that they were NOT SERVED UNTIL 9-9-24 and that this is within the 30 days.
3. The Defendants were CORRECTLY SERVED UNDER MCR 2.105(B)(1)(b) which allows for INDIVIDUAL SERVICE and SUBSTITUTED SERVICE and states the following--ON A NON RESIDENT INDIVIDUAL BY "MAY BE MADE" (b) SENDING A SUMMONS AND A COPY OF THE COMPLAINT BY REGISTERED MAIL ADDRESSED TO THE DEFENDANT AT HIS OR HER LAST KNOWN ADDRESS."
4. The Defendants have admitted that they were served BY CERTIFIED MAIL AND RETURN RECEIPT. They have admitted this on court record, and therefore service has been made.
5. If the Court reviews this Plaintiff motions to reinstate and motion to grant reconsideration, it will see that these arguments were made and Plaintiff would have won in the trial court under this argument had the Defendants Not Lied to the Trial Court and got the MDOC to delay the Mailing of said documents to the Clerk of the Court and Allowed Said Motions to be heard.
6. Instead the Defendants used tactics to STOP THE TRIAL COURT FROM HEARING THIS FACTUAL ARGUMENT BY LYING AND SAYING THAT THE CASE MUST BE REMOVED...When it should not have been removed and they are still lying to this New Court by having it be done as an original action, and their lies are on the court record and it must not be allowed to proceed in this Court because this court should not be lied to.
7. The Defendants have lied and said that they got it on the 9th of September and that the Plaintiff was Required to use RESTRICTED DELIVERY TO ADDRESS UNDER MCR 2.105(A)(2). This is the lie they told in the Trial Court and are still telling when in fact, Plaintiff has court rule on his side, showing that they were actually served on JULY 6, 2024 and were therefore required to do their NOTICE OF REMOVAL BY AUGUST 6, 2024 and did not do so until OCTOBER 8, 2024 2 MONTHS LATER THEN ALLOWED UNDER LAW AND RULE.
8. As such, the District Court for the Eastern District of Michigan is WITHOUT ANY JURISDICTION TO HEAR THIS CASE AND IT MUST BE REMANDED BACK TO THE TRIAL COURT IMMEDIATELY.

RELIEF SOUGHT

Wherefore, Plaintiff prays this Court will REMAND THE CASE BACK TO THE TRIAL COURT FOR LENAWEE COUNTY because the FEDERAL COURT IS WITHOUT JURISDICTION TO HEAR THE CASE as that the Notice of removal was Required to be filed by August 6, 2024 and was not filed until October 8, 2024, requiring it to be remanded back down to the trial court for lack of jurisdiction, and any further relief this Court deem necessary and appropriate.

Respectfully Yours,

10-8-24

  
Mr. Derrick Lee Cardello-Smith  
#267009  
E.C. Brooks Correctional Facility  
2500 S. Sheridan Drive  
Muskegon, MI 49444

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT  
OF MICHIGAN

DERRICK LEE CARDELLA-SMITH #267009,  
Plaintiff,

Vs

SEAN COMBS

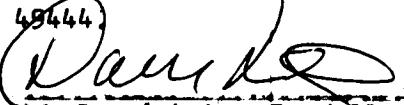
Defendant,

Case No 24-12647

HON. JUDITH LEVY  
HON. KIMBERLY ALTMAN

PROOF OF SERVICE

I swear and declare that I mailed one copy of this motion to the Defendants at  
their address of record by US Mail on 10-10-24 and doing so in Muskegon, MI  
49444.

  
Mr. Derrick Lee Cardello-Smith  
#267009  
E.C. Brooks Correctional Facility  
2500 S. Sheridan Drive  
Muskegon, MI 49444

NAME: Mr. Barrick Lee Cardillo-Smith  
Number: #267009  
Address: E.C. Brooks Correctional Facility

Address: 2500 S. Sheridan Drive

Muskegon, MI 49441

Mailed on 10-10-24

Office of the Clerk  
United States District Court  
theodore Levin U.S. Courthouse  
231 W. Lafayette Blvd  
Detroit, MI 48226

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